

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Valdes, et al. Attorney Docket Number: 10454-022001
(SRI/4190-4)

Application No.: 09/944,788 Filed: August 31, 2001

Examiner: Cristina O. Sherr Group Art Unit: 3621

Title: PROBABILISTIC ALERT CORRELATION

COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, VA 22313-1450

SIR:

Disclosure Statement under 37 C.F.R. §§ 1.56 and 1.98

Pursuant to 37 CFR § 1.56 and MPEP § 2001.06(c), the documents listed on the attached form PTO-1449 are disclosed.

Pursuant to 37 CFR § 1.98(a), the documents listed on the attached form PTO-1449 are submitted herewith. The Information Disclosure Statement submitted herewith is being filed after the period specified in 37 CFR 1.97(c), but on or before an action that closes prosecution in the application, and is accompanied by the statement and fee as indicated below. The Commissioner is hereby authorized to charge counsel's Deposit Account No. 20-0782/SRI/4190-4 for the fee set forth in 37 CFR 1.17(p), as well as any other fees required to make this response timely and acceptable to the Office.

Some of the documents listed on the attached form PTO-1449 comprise the responses to contention interrogatories made in the action captioned *SRI International Inc. v. Internet Security Systems et al.* in the U.S. District Court for the District of Delaware, case number 04-1199-SLR. The interrogatories relate to the defendants' allegations of inequitable conduct and to the validity of U.S. Patents 6,711,615, 6,484,203, 6,321,338, and 6,708,212.

The documents listed as C2 through C51 on the attached form PTO-1449 are the defendants' interrogatory responses and exhibits thereto. The documents listed as C52 through C55 are the plaintiff's (Applicants') responses, including a rebuttal of the defendants' allegations of invalidity. The remainder of the

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documents provided herewith represent the art referenced in the defendants' responses that is not already of record in the present Application.

The final exhibit of each defendant's responses (*i.e.*, documents C25 and C49) alleges that the combination of an exceptionally large number of documents renders the patents in suit obvious. In order to avoid overly burdening the Examiner with this large volume of additional material, the Applicants have not provided copies of these references unless they are referenced elsewhere in the exhibits, or already of record in the present Application. However, the Applicants' representative will be more than happy to provide any or all of these references if the Examiner believes it necessary.

The documents listed as C156-C160 are orders, memorandum orders, and a memorandum opinion issued by the District Court. The documents listed as C165-C176 and C180-C182 are briefs in support of and in opposition to several motions filed in the District Court. The document listed as C177 is a report on validity by an expert witness. The documents listed as C178-C179 are the plaintiff's (Applicants') responses to defendant interrogatories.

The Examiner's attention is directed to the fact that certain portions of the documents submitted herewith (particularly, certain portions of the defendant's invalidity contentions) are marked as subject to a protective order. The portions of the documents so marked include citations from an unpublished, internal and confidential document authored by the Applicants entitled "*Conceptual Design and Planning for EMERALD: Event Monitoring Enabling Responses to Anomalous Live Disturbances*" dated 20 May, 1997. This document has never been published or made available to the public, and as such cannot be prior art or otherwise material to patentability, and is not cited on the attached form PTO-1449. The Applicants do not object to the inclusion of the cited portions of this document, as recited in the defendant's invalidity contentions, in the official file wrapper maintained by the Office.

Further, two documents referenced by the defendants in their contentions are marked as "For Official Use Only": (i) "*Netranger Realtime Network Intrusion Detection Performance and Security Test*", DoD/SPOCK including appendices A, B, and C, April 30 1997 and (ii) "*Product Security Assessment of the Netranger Intrusion Detection Management System Version 1.1*", Air Force Information Warfare Center, February 1997. The Applicants are investigating the validity of these government markings and are unable at present to provide the Examiner with copies thereof. If it is determined that these markings are no longer appropriate, the Applicants will provide copies to the Examiner.

Some of the documents listed on the attached form PTO-1449 comprise the pleadings made in the action captioned *SRI International Inc. v. Internet Security Systems et al.* currently pending in the U.S. Court of Appeals for the Federal Circuit, case number 2007-1065. The pleadings relate to an appeal of the

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District Court Opinion regarding the validity of U.S. Patents 6,711,615, 6,484,203, 6,321,338, and 6,708,212. The documents listed as C186 through C187 on the attached form PTO-1449 are the plaintiff's (Applicants') and defendants' briefs before the USCAFC. The document listed as C188 is the USCAFC Opinion. The document listed as C189 is the defendant's petition for panel rehearing en banc, and the document listed as C190 is the plaintiff's (Applicants') response to the defendant's petition.

Respectfully submitted,



2/21/08

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